JOINT COMMITTEE ON TAX POLICY

2008 Tax Credit Review

The Joint Committee on Tax Policy has examined the following tax credits during the 2008 interim. In accordance with Section 21.810, RSMo, the committee makes the following recommendations:

<u>HOUSING TAX CREDITS</u>

1. **Low Income Housing Tax Credit as described in Sections 135.350-135.363, RSMo.**

<u>Purpose:</u>

The credit was enacted in 1990 as a complement to the Federal Low Income Housing Tax Credit. The credit leverages equity investments from the private sector for the development of rental housing, thereby reducing rents to affordable levels for low and moderate income families. Recipients receive the tax credit over a period of 10 years.

Generally, developers will enter into limited partnerships or will form a limited liability company with investors; usually, the developer is the general partner while the investors have more limited and passive roles in the project. Developers then sell the tax credits to these investors (or a syndicator who has gathered a group of investors) who provide an equity investment in the project in return for the credits. These equity investments are provided to the developers up front while the credits are issued to the developers who sell them to the investors over a 10 year period.

Allocations to projects may be made for up to 100% of the value of the federal tax credit. There are two types of state tax credits: 9% credits which are awarded on a competitive basis and 4% credits which are non-competitive and are financed with tax-exempt bonds.

The credit may be carried back 3 years, carried forward 5 years, and may be transferred or sold within the ownership structure.

<u>Testimony:</u>

John Halwes and Bobby Showers, Missouri State Auditors Office
- Presented the findings of a state audit (2008-23) of the Low Income Housing Tax Credit.

Pete Ramsel, Janell Thome, and Kathryn Watts, Missouri Housing Development Commission

- Testified on behalf of MHDC in regards to the administration and operation of the tax credit, submitted written documents concerning the credit, and responded on behalf of MHDC in regards to the state audit.

Greg Young, Citizen

- Presented a critical view of the tax credit. He stated that the credit has poor incentives and lacks accountability. He believes that the program has lost sight of its original purpose.

Recommendation:

The committee recommends that the General Assembly explore the state and federal tax implications of making the state credit refundable.

2. Affordable Housing Assistance Tax Credit Program as described in Sections 32.105-32.125, RSMo.

Purpose:

The credit provides an incentive for businesses and individuals to make donations to non-profit organizations that assist in the production of affordable rental housing or homeownership for low-income families in Missouri. Businesses and individuals must donate cash, professional services, or real or personal property to a non-profit housing organization which provides assistance for the acquisition, rehabilitation, and/or new construction of affordable housing.

The program has an $11,000,000 cap, $10,000,000 of which is designated for donations to non-profit housing organizations for funding housing projects and $1,000,000 of which is set aside for donations for the operations of the non-profit housing entities. The amount of tax credit allocated is equal to 55% of the value of the contribution.

The credits may be carried forward 10 years and may be transferred or sold.

Testimony:

Bobby Showers, Missouri State Auditors Office

- Presented the findings of a state audit (2008-47) of the Affordable Housing Assistance Tax Credit Program.

Pete Ramsel, Janell Thome, and Kathryn Watts, Missouri Housing Development Commission

- Testified on behalf of MHDC in regards to the administration and operation of the tax credit and in response to the state audit of the program.

Recommendation:

The committee recommends that the General Assembly review this credit in conjunction with its analysis of the Missouri Low Income Housing Tax Credit.

3. Neighborhood Preservation Tax Credit Program as described in Sections 135.475-135.487, RSMo.

Purpose:

The credit, enacted in 1999, provides an incentive for the rehabilitation or construction of owner-occupied homes in certain areas of the state.

“Qualifying Areas” include “distressed communities” as defined in 135.530, RSMo and areas with a median household income of less than 70% of the median household income for the applicable MSA or non-MSA.

“Eligible Areas” include areas with a median household income of 70-89% of the median household income for the applicable MSA or non-MSA.

The credit amounts vary depending on the project and the area in which the project is located.

- For new residences in Eligible Areas, the credit amount is 15% of eligible costs up to $25,000 per residence.
- For new residences in Qualifying Areas, the credit amount is 15% of eligible costs up to $40,000 per residence.
- For substantial rehabilitations in Eligible Areas, the credit amount is 25% of eligible costs for projects (with a minimum cost of $10,000) up to $25,000 per residence.
- For substantial rehabilitations in Qualifying Areas, the credit amount is 35% of eligible costs (with a minimum cost of the greater of $5,000 or 50% of the purchase price) up to $70,000 per residence.
- For non-substantial rehabilitations in Qualifying Areas, the credit amount is 25% of eligible costs (with a minimum cost of $5,000) up to $25,000 per residence.

The program has an annual cap of $16,000,000, $8,000,000 is dedicated for Qualifying Areas and $8,000,000 is dedicated toward Eligible Areas.

The credits may be carried back 3 years, carried forward 5 years, and may be transferred or sold.

Testimony:

Ann Perry and Sallie Hemenway, Department of Economic Development
- Testified in regard to the administration and operation of the tax credit.

Lyzel Krebs, Homebuilders Association of St. Louis and Eastern Missouri
- Submitted written testimony which both expressed support of the tax credit and updated the committee on efforts to ease the administrative burden of the credit.

Recommendation:

The committee requests information from the Department of Economic Development on the transferability and use of this credit. Based on this information, the committee will explore options for reform including the concept of making the credit refundable.

REDEVELOPMENT TAX CREDITS

4. Historic Preservation Tax Credit as described in Sections 253.545-253.561, RSMo.

Purpose:

Created in 1997, the tax credit provides and incentive for the redevelopment of commercial and residential historical structures in Missouri.

To qualify, the property must meet one of three conditions:
1. It must be listed individually on the National Register of Historic Places.
2. It must be certified by the MO Department of Natural Resources as contributing to the historical significance of a certified historic district listed on the National Register
3. It must be of a local historic district that has been certified by the US Department of the Interior.

The credit amount is equal to 25% of eligible costs and expenses of the rehabilitation of the approved historic structure. The costs and expenses associated with the rehabilitation must exceed 50% of the total basis of the property (acquisition costs).

Taxpayers may also be eligible to receive a federal tax credit equal to 20% of the eligible costs incurred as a result of the rehabilitation. To receive the federal credit, the historic structure must be an income producing property and must meet requirements similar to those of the state tax credit.

The credit may be carried back 3 years, carried forward 10 years, and may be sold or transferred.

Testimony:

Ann Perry and Sallie Hemenway, Department of Economic Development
- Presented information on the administration and operation of the credit.

Barbara Geisman, City of St. Louis

- Expressed support for the credit and stated that Historic Preservation Tax Credits have produced $1.3 billion in development within the City of St. Louis.

Rodney Boyd, Missouri Growth Association

- Offered information regarding commercial real estate use of the incentive.

Jerry Best, Missouri Alliance for Historic Preservation

- Testified for information purposes only, specifically in regard to the tax credit financing aspects and the cost certification process of the program.

Karen Bode-Baxter, Missouri Alliance for Historic Preservation

- Testified in support of the tax credit and submitted written testimony on behalf of her organization in support of the program.

James Cloar, Downtown St. Louis Partnership

- Testified in favor of the credit. Stated that the program has three payoffs: it creates positive impressions on visitors, it relieves increased pressures on producing infrastructure, and it establishes urban living opportunities.

Jim Farrell, Coalition for Historic Preservation and Economic Development

- Testified in regards to the continuation of the Historic Preservation Tax Credit as it is administered currently. Expressed opposition toward establishing either a sunset or a cap on the program.

Eric Friedman, Historic Preservation and Economic Development Coalition

- Testified in favor of the credit. Stated that "the Historic Tax Credit program is a critical element in the overall economic development program in the state to support the "Missouri Dream Communities" and the cities that are the economic engine for our state. This program has a direct impact on how our state and communities are perceived and also on the issue of our brain drain and losing our talent from communities and the economic engine of our state."

Susan Hart, Huebert Buildings Inc.

- Testified in favor of maintaining the Historic Preservation Tax Credit Program particularly in regards to the impact the program has on construction labor in central Missouri.

Jassen Johnson, Renaissance Development Associates

- Testified in favor of the program.

Debbie Sheals, Historic Preservation Consultant

- Expressed her support of the Historic Preservation Tax Credit Program and stated her opposition toward implementing a sunset provision on the program.

Marion Smith, Benton Park Neighborhood

- Stated that "Historic Tax Credits have contributed enormously to transformation of our neighborhood from blighted building to vital community and there's still lots more work to do."

Mark J. Raming, Citizen and Business Owner

- Testified in favor of maintaining the Historic Preservation Tax Credit Program. The credit has contributed to his company's growth, to jobs in the region, and to large and small town projects. The required use of better products means longer life and service of buildings and less new infrastructure.

Penny Pitman, Iron Star Inc.

- Submitted written testimony in favor of the tax credit.

<u>Recommendation:</u>

The committee recognizes that this credit presents a "lack of certainty" issue to the budgetary process. The committee recommends that the General Assembly explore different ways of managing the credit for budgetary purposes.

5. Brownfield Redevelopment Tax Credit Program as described in Sections 447.700-447.718, RSMo.

<u>Purpose:</u>

The credit provides financial incentives for the redevelopment of commercial or industrial sites that are contaminated with hazardous substances and have been abandoned or underutilized for at least three years.

To be eligible for the credit, it must meet the following criteria:

- The applicant cannot be a party who intentionally or negligently caused the release or potential release of hazardous substances at the project site.
- If the project is not owned by a public entity, the city or county must endorse the project.
- The project must be accepted into the "Voluntary Cleanup Program" of the Missouri Department of Natural Resources.
- The project must be projected by the Department of Economic Development to result in the creation of at least ten new jobs or the retention of 25 jobs by a private commercial operation.

There are three types of credits that fall under the purview of the program.

1. Remediation Tax Credits

The Department of Economic Development may issue tax credits for up to 100% of the remediation costs. 75% of the credits are issued after DED obtains adequate

proof of payment of the costs; the remaining 25% are issued only after a clean letter has been issued by the Department of Natural Resources. These credits may be carried forward for 20 years and may be sold or transferred.

2. Demolition Tax Credits

The Department of Economic Development may issue credits for up to 100% of the cost of non-remediation demolition costs. The demolition must be a part of a city (or county) and state approved redevelopment plan. These credits may be carried forward for up to 20 years and may be sold or transferred.

3. Jobs and Investment Tax Benefits

Businesses locating at the project that create new jobs in the state may receive (for up to ten years) tax credits in the amount of $500 to $1,300 per year for each new job created, 2% of the new capital investment per year, and a 50% income exemption. To be eligible for these benefits, the city or county must provide at least 50% real property tax abatement for a period of 10-25 years. These credits must be applied to tax liability in the year it was earned.

<u>Testimony:</u>

Ann Perry and Sallie Hemenway, Department of Economic Development
- Presented information on the operation and administration of the credit.

Rodney Boyd, Missouri Growth Association
- Offered information regarding commercial real estate use of the incentive.

Jerry Best, the Lawrence Group
- Offered information on the credit.

Debbie Sheals, Historic Preservation Consultant
- Testified in support of the credit and stated opposition to establishing a sunset for the program.

Dennis G. Coleman, St. Louis County Economic Council
- Submitted written testimony in support of the credit.

<u>Recommendation:</u>

The committee recommends that, beginning in fiscal year 2010, no credits be authorized for both the Demolition credit and the Jobs and Investment credit. The committee makes no recommendation for the Remediation credit.

6. Community Development Corporation Tax Credit as described in Sections 135.400-135.430, RSMo.

Purpose:

The credit induces the creation of Community Development Corporations (CDC) which would then invest in new or growing small businesses, owner occupied housing, certain types of real estate development, or redevelopment projects in a targeted area.

A contributor or investor may obtain state tax credits based on 50% of their investments or contributions in a pre-approved CDC. The CDC would then make equity investments or loans to a specific project within the designated redevelopment area.

The CDC may use the funds for loans or equity investments to a business to be used for acquisition of real estate or buildings, new capital improvements and working capital. Funds may also be used for real estate development or redevelopment projects, including certain types of housing in-fill and new construction for owner occupied units.

The maximum tax credits provided to contributors or investors of a CDC is $100,000 (based on investments or contributions of $200,000). The maximum investment by the CDC in one business/project is $100,000. The CDC's investment must create or retain at least one full-time job (except in housing). The credits can be carried forward for up to 10 years and may be transferred or sold. The program had a cumulative cap of $6,000,000; the cap has been exhausted.

Testimony:

Ann Perry and Sallie Hemenway, Department of Economic Development
- Presented information on the operation and administration of the credit.

Recommendation:

The committee makes no recommendation for this credit.

7. MDFB Infrastructure Tax Credit (Contribution Tax Credit Program) as described in Section 100.286, RSMo.

Purpose:

The credit assists in the funding of capital improvement costs for qualified public facilities and public infrastructure projects within the state of Missouri. The Missouri Development Finance Board is authorized to grant a tax credit equal to 50% of any money contributed by any taxpayer. The contributed funds are granted to local governments or state agencies to finance infrastructure improvements needed to facilitate an approved project.

The credit may be carried forward for up to 5 years and may be sold or transferred.

Testimony:

Bob Miserez, Missouri Development Finance Board
- Presented information on the operation and administration of the credit.

Recommendation:

The committee makes no recommendation for this credit. However, because of the potential budget uncertainty that the credit presents, the committee seeks information as to why the cap on the credit can be waived by the concurrence of three governor-appointed officials.

8. MDFB Bond Guarantee Tax Credit as described in Section 100.297, RSMo.

Purpose:

The credit acts as insurance for revenue bonds issued by the Missouri Development Finance Board for blight remediation. In the event of default, purchasers of bonds will receive tax credits for the amount of principal and interest due on the date of the default. Revenue still goes in to MDFB.

The credits may be carried forward for up to 10 years and may be sold or transferred.

Testimony:

Bob Miserez, Missouri Development Finance Board
- Presented information on the operation and administration of the credit.

Recommendation:

The committee makes no recommendation for this credit.

9. Disabled Access Tax Credit as described in Section 135.490, RSMo.

Purpose:

The credit provides an incentive to individuals and corporations who make their business more accessible to people with disabilities. A small business whose gross receipts did not exceed $1,000,000 for the preceding tax year or who did not employ more than 30 full-time employees during the preceding year is eligible to apply for the credit. The small business may claim a state income tax credit for up to 50% of eligible expenditures which exceed $10,250. The maximum credit that can be claimed is $5,000 per year.

The credit may be carried forward until it is exhausted and may not be sold or transferred.

Testimony:

Patrick Baker, Department of Revenue
- Presented information on the operation and administration of the program.

Recommendation:

The committee makes no recommendation for this credit.

AGRICULTURAL TAX CREDITS

10. Wine Producers and Grape Growers Tax Credit as described in Section 135.700, RSMo.

Purpose:

To assist vineyards and wine producers with the purchase of new equipment and materials by granting a tax credit for a portion of the purchase price.

Individuals, partnerships, or corporations are entitled to receive a tax credit equal to 25% of the purchase price of new equipment and materials used directly in the growing of grapes or production of wine in Missouri.

The credit must be applied to the tax liability of the recipient in the year that it was earned.

Testimony:

Brenda Horstman, Department of Economic Development
- Presented information on the operation and administration of the tax credit.

Recommendation:

The committee makes no recommendation for this credit.

11. Agricultural Product Utilization Contributor Tax Credit Program as described in Section 348.430, RSMo.

Purpose:

The credit is designed to leverage contributions to the Missouri Agricultural and Small Business Development Authority (MASBDA) for the purpose of funding grants for the development of rural agricultural business concepts. MASBDA may issue tax credits in an amount equal to 100% of the value of the contribution. A single rural agricultural business concept may not receive more than $200,000 in grant awards from MASBDA. MASBDA may provide or facilitate loans, equity investments, or guaranteed loans to rural agricultural business concepts but this type of assistance may not exceed $2,000,000 or the net state economic impact for each project, whichever is less.

The credit is capped at an amount equal to the amount of the unutilized funds from the New Generation Cooperative's annual cap of $6,000,000; this amount is determined on May 1 of each fiscal year. The credits are awarded to projects on a competitive basis.

The tax credits may be carried forward for up to 5 years, carried back for up to 3 years, and may be sold or transferred. The program has a sunset date of December 31, 2016.

<u>Testimony:</u>

Tony Stafford, Missouri Agricultural and Small Business Development Authority
- Presented information on the operation and administration of the credit.

Judith Stallman, University of Missouri
- Updated the committee on an evaluation of the program currently being undertaken.

<u>Recommendation:</u>

The committee makes no recommendation for this credit.

12. New Generation Cooperative Incentive Tax Credit Program as described in Section 348.432, RSMo.

<u>Purpose:</u>

To induce producer member investment into new generation processing entities which will result in the processing of Missouri agricultural commodities and agricultural products into value-added goods, provide substantial benefit to Missouri's agricultural producers, and result in the creation of jobs for Missourians.

There is a $6,000,000 annual cap on the New Generation Cooperative Incentive Program; on May 1, any unutilized funds may be directed toward Agricultural Product Utilization Contributor Program activities. Eligible producer members related to a "large capital project" may not receive more than $1,500,000 in tax

credits. Eligible producer members related to an "Employee Qualified Capital Project" may not receive tax credit totaling more than $3,000,000. The employee qualified projects must hire the equivalent of 60 full-time employees within 24 months of when the facility becomes operational; the equivalent of 60 full-time employees must be hired for a period of at least 5 years.

A producer member may receive credits equal to the lesser of: 50% of the producer member's cash investment in an eligible facility, $15,000, or a producer member's pro-rata share of the maximum amount of tax credits allocated to the project.

The credits may be carried forward for up to 5 years, carried back for up to 3 years, and may be transferred or sold. The program has a sunset date of December 31, 2016.

Testimony:

Tony Stafford, Missouri Agricultural and Small Business Development Authority
- Presented information on the operation and administration of the credit.

Judith Stallman, University of Missouri
- Updated the committee on an evaluation of the program currently being undertaken.

Recommendation:

The committee makes no recommendation for this credit.

13. Family Farm Breeding Livestock Tax Credit as described in Sections 348.500-348.505, RSMo.

Purpose:

To assist small farmers by providing tax credits to lenders who make breeding livestock (beef cattle, dairy cattle, sheep, goats, and swine) loans to small farmers and waive the first year's interest . The credit amount is equal to the amount of interest waived. The lender applies for the credit through the Missouri Agricultural and Small Business Development Authority after the first 12 months of the loan. Only breeding livestock qualify.

Eligible small farmers are Missouri residents who have less than $250,000 in gross agricultural product sales per year. The maximum eligible loan cannot exceed 90% of the cost of purchasing breeding livestock. Only one eligible loan is allowed per immediate household and for only one type of livestock. The maximum amount of the loan for each type of livestock is: $75,000 for beef or dairy cattle, $30,000 for sheep or goats, and $35,000 for swine. The credit has an annual cap of $300,000.

The credit may be carried forward for up to 3 years and may be transferred or sold. Contrary to Section 23.253, RSMo, this program does not have a sunset date established within its authorizing statutes.

Testimony:

Tony Stafford, Missouri Agricultural and Small Business Development Authority
- Presented information on the operation and administration of the credit.

Recommendation:

The committee makes no recommendation for this credit.

14. Qualified Beef Tax Credit as described in Section 135.679, RSMo.

Purpose:

The credit provides Missouri beef cattle farmers with an incentive to background and/or finish Missouri born and raised qualified beef cattle in the state. The amount of the tax credit is equal to the qualifying sale weight minus the baseline weight multiplied by $.10 per pound provided that the sale weight is 200 pounds or greater than the baseline weight. The program has an annual cap of $3,000,000.

The credit may be carried forward for up to 5 years, carried back for up to 3 years, and may be sold or transferred. The program sunsets on December 31, 2016.

Testimony:

Tony Stafford, Missouri Agricultural and Small Business Development Authority
- Presented information on the operation and administration of the credit.

Recommendation:

The committee recommends that the Missouri Agricultural and Small Business Development Authority keep the committee well-informed on how the credit is to be administered because of the challenges that the implementation of the credit presents to MASBDA. The committee requests an update on the administration of the credit at the committee’s first hearing after the adjournment of the 2009 legislative session.

ALL MISSOURI TAX CREDITS:

Recommendations:

The committee recommends that Missouri state government develop a program evaluation model for the purposes of analyzing the impact of each of Missouri's tax credit programs.

The committee requests that committee staff create a spreadsheet of each credit's economic impact and cost/benefit to the state.